



May 31, 2001

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**RE: Comments for Consideration by NMFS regarding the proposal by the Navy for a "small take exemption" under the MMPA in order to deploy SURTASS LFA sonar.**

The following is taken directly from the Dept of Commerce Press release of 3/19/01 calling for comments on the SURTASS LFA sonar taking permit.

"Under the MMPA, the incidental taking of small numbers of marine mammals is authorized provided NOAA Fisheries can determine, based on the best science available that

- 1) these takings will have no more than a negligible impact on the affected species and stocks of marine mammals,
- 2) that the takings will not have an unmitigable adverse impact on the availability of these species for subsistence uses,
- 3) and if regulations are imposed that set forth permissible methods of taking and requirements for monitoring and reporting of such takings."

From the data that is available to us in the Final OEIS on SURTASS LFA, combined with comments made at hearings by scientists, and others and reports of the deaths of whales attributed to mid-range sonar used by the Navy, it is clear that a determination that satisfies any one of the above, let alone all three is simply not credible at this time.

Greenpeace Foundation will not address, in these comments, the probable effects on marine mammals of the sound intensity levels that were used in the research studies and reported on the OEIS. These have been covered in great detail by other commentators, so we will address something which NMFS has, in hearings, not wanted to discuss.

### **LFA Intensities Actually Used in the Field**

In order to minimize the potential risk to marine mammals, the studies referenced in the OEIS were conducted to a maximum of RL of 160dB (pg ES-15). This implies that the Navy concurs with many researchers that there is a potential physical threat to marine mammals at a dB level of over 160. The OEIS states that the use of the term "employment" of SURTASS LFA sonar applies only to routine usage and testing. It does not apply during "armed conflict" or "during periods of heightened threat conditions." The National Command Authorities (NCA) can at any time determine that threat conditions exist and authorize the use of higher intensities which are injurious to marine mammals. (pg Es-5) This is a major loophole in the effort to protect marine mammals from physical harm.

On page ES-7, it states that "The Navy, therefore, has not provided detailed analysis of such alternatives as....limiting projector source levels to below 215dB. This was not included as "they would not fulfill the purpose and need of the proposed action." This leads Greenpeace Foundation to question what sound intensity the Navy actually plans to use under field conditions. The OEIS itself states that the intensities under 215dB will not "fulfill the purpose. " Therefore, reviewers are faced with reviewing a proposal with data on sound levels that in all likelihood are enormously lower than those to be used during actual military application. During such use, there would be no scrutiny of the Navy actions, which at any time can be officially authorized by the NCA.

Moreover, there is no physical reason to expect that the power of these arrays cannot be upped to arbitrarily high power levels with simple physical modification which can occur at any time without public notice, or any mechanism for environmental oversight.

The OEIS, the scientists who presented on behalf of the project at the hearings and the NMFS and Navy representatives paint a rosy picture, that only sonar levels which are deemed safe for whales will be deployed during "routine" usage. Less than one page out of two thick volumes is devoted to the real life scenario that in time of "heightened security", intensities exceeding what the OEIS considers to be safe levels will be used.

This is inconsistent with a real review of the effects of this system, and the granting of a letter of authorization based on this glaringly inadequate level of consideration would be a gross dereliction of NMFS' mandate. **GPF asks that the letter of Authorization be denied on this basis.**


Let's be clear that NMFS has no "national security" mandate, and should not assume one. Rather, it is part of a carefully constructed mechanism of checks and balances meant to insure that wild resources are not destroyed by other agencies or entities.

The National Marine Fisheries Service has a mandated obligation to the United States to protect and manage marine resources. The United States has a larger obligation - to not cause harm to the resources that are a part of the global commons. There are many kinds of security in this world. Military security is only one. Security of food resources and security of natural resources must be high priorities as well. The use of SURTASS LFA has the potential to cause long-term disruption of marine resources. It has the potential to cause direct physical harm and the potential to cause long-term harassment of wildlife, with unknown consequences.

The US will not be able to control the deployment of this technology by other nations who may not limit their "routine" usage to levels safe for marine life. Therefore, the development of and use of SURTASS LFA by the USA will be setting a very bad precedent for other nations to follow. This is road that we urge the US government to not go down, and the NMFS decision on this letter of Authorization is possibly the most crucial step.

The NMFS should deny any and all taking permits or authorizations while encouraging the Navy to develop technology and strategies that will allow intelligence-gathering in an environmentally benign way..

Sincerely,

  
Sue White  
President  
Greenpeace Foundation